IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2323 OF 2006

Faculty Forum, I.I.T.Bombay .. Petitioners

Vs.

Union of India & Ors. .. Respondents

Mr.Chander Uday Singh with Mr.R.D.Patil with Mr.A.S.Kode i/b M/s.Ajay Misar and Co. for the petitioners

Ms.Jyotsna Pandhi for respondent no.1

Mr.Ramesh Jain with Mr.T.A.Goradia i/b M/s. Bhaishankar Kanga & Girdharlal for respondent nos.2 to 4

CORAM : J.N.PATEL &
A.A.SAYED, JJ.

DATED : 1ST AUGUST, 2007

ORAL JUDGMENT (Per A.A.Sayed, J.):

1. Rule.

2. By consent, Rule made returnable forthwith.

3. The petitioner no.1, which is a regd. Society of Associate Professors of I.I.T. Bombay

(Respondent No.2), has filed the present petition claiming parity in the pay scale for their 75 Associate Professor members on the lines of the reliefs granted vide common order dated 14.06.2004 passed in the four Writ Petition Nos.2147 to 2150 of 1990 by this Court to similarly placed 4 Associate Professors who are also members of petitioner no.1.

4. It is the case of the petitioners that the 4 Associate Professors of the Respondent no.2 institute have been granted the relief of their pay scale being fixed in the time scale of Rs.5100-150-5700-200-6300 in the above mentioned 4 Writ petitions being Writ Petition Nos.2147 to 2150 of 1990. It is submitted that under instructions from respondent no.1 (Union of India), Respondent no.2 (IIT, Bombay) made appointments to the Professors' position, against the sanctioned strength of the Professors' cadre and in the segment of Rs.1,500-60-1,800-100-2,000 of the full scale of pay of the Professors, Rs.1,500-60-1,800-100-2,000-125/2-2,500 while designating them as Associate Professors from

September 1983 upto about May 1989. The petitioners further state that respondent no.1 revised the cadre structure and pay scales of the teachers in the Indian Institutes of Technology, including respondent no.2 Institute, pursuant to which an independent cadre of Associate Professors between that of Assistant Professors and Professors was created and the new cadre of Associate Professors were assigned the scale of Rs.4,500-6,300 while the Professors were given the scale of Rs.5,100-7,300 and that the salary of Associate Professor was fixed in this inferior cadre scale instead of a segment of the Professors' revised scale.

5. Being aggrieved by the aforesaid time scale, four Associate Professor members of Petitioner No.1 approached this Court by way of Writ Petition Nos.2147 to 2150 of 1990 praying that the salary of the respective petitioners and of the similarly placed persons be fixed in a segment of the Professors' scale as revised pursuant to the letter dated 19.04.90. By a common order dated 14.06.04 in all the above four writ petitions, this

Court directed that the salaries of the petitioners therein be fixed in the time scale of Rs.5100-150-5700-200-6300 from 1.1.86 (or later from their dates of appointment as Associate Professors) and be paid all consequential benefits.

6. The present petitioners have made representations to respondent nos.1 and 4 to grant them similar time scales which was granted to the 4 petitioners in the above mentioned four petitions. Though respondent no.3 informed respondent no.2 and reiterated that the petitioners and the other similarly placed Associate Professors ought to be placed in the time scale of Rs.5100-6300, as ordered by this Court in the 4 Writ Petitions, respondent no.1 by letter dated 1.12.05 addressed to respondent no.3, informed them that as the order dt.14.6.04 is not of a general nature, the benefit of the said order cannot be extended suo moto. The petitioners have therefore, approached this Court seeking similar reliefs for the rest of the 75 Associate Professor members of the faculty.

7. We have heard the learned counsel for the

parties at length. The learned counsel for the petitioners submitted that the decision of respondent no.1 vide letter dt.1.12.05 not to extend the benefit of the order dt.14.06.06 of this Hon'ble Court in Writ Petition Nos.2147 to 2150 of 1990 to the similarly placed Associate Professor members of the petitioner no.1, is contrary to law and discriminatory in nature and violates Articles 14 and 16 of the Constitution of India and therefore, they are entitled to the reliefs sought.

8. On the other hand, the learned counsel for the respondents have submitted that the petitioners are not entitled to the benefit and there are huge financial implications to the tune of Rs.80 lacs and therefore, the reliefs should not be granted.

9. Our attention is drawn to the letter dt.1.12.05 written by the Government of India, Ministry of Human Resource Development to the Director, Indian Institute of Technology wherein in the last para it is stated "as the judgment is not of a general nature, the benefit of the said court judgment cannot be extended to similarly placed

Associate Professors suo moto."

10. In our view, the issue in this petition is already covered by the common judgment and order dated 14.06.04 in Writ Petition Nos.2147 to 2150 of 1990 wherein the Court has allowed the prayers of 4 Associate Professor members of the petitioner no.1. We find that the respondents cannot, after having granted revised pay scale to the 4 Associate Professor members pursuant to orders in the aforesaid petitions, deny the benefit to the rest of the 75 Associate Professor members of the petitioner no.1 in the present petition as it would amount to violation of Article 14 and 16 of the Constitution as the Associate Professors are similarly placed and entitled to identical reliefs.

11. We therefore, direct the respondents to implement the order of this Court dt.14.06.06 in Writ Petitions' No.2147 to 2150 of 1990 in favour of the remaining 75 similarly placed Associate Professor members of petitioner no.1 and grant them the scale on par with the 4 petitioners in the aforesaid petitions by examining the case of each

individual Associate Professor member of petitioner no.1 on merits as to their eligibility and their entitlement. The decisions to be taken by the authorities within 3 months from the date of this order.

11. Rule made absolute in the aforesaid terms with no order as to costs.

(J.N. PATEL, J)

(A.A. SAYED, J)